

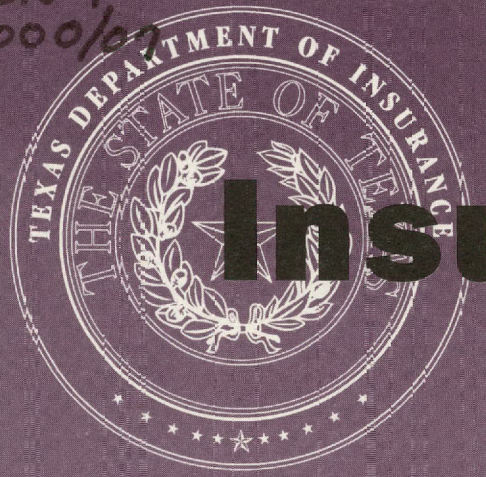
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# Texas Insurance News

REGULATORY NEWS PUBLISHED BY THE TEXAS DEPARTMENT OF INSURANCE

## TDI Probes Race-based Pricing

**T**HE DEPARTMENT is surveying insurers selling "industrial life" and similar small life insurance policies to determine if any are charging African-Americans higher premiums than others.

TDI mailed letters on June 1 and June 2, 2000, to all companies that sell industrial life and other forms of small amount life insurance traditionally marketed to low-income consumers. Industrial life is a small market in Texas, with annual premium of \$6.6 million in 1999.

The letters, signed by William O. Goodman, special litigation counsel in TDI's Legal and Compliance Program, said the Department was "not implying that your company or its predecessors engaged in this practice or if it once did, continues to do so."

"However," the letter said, "because evidence of this practice was not confined to explicit table ratings such as 'White risks' or 'Negro Risks' but was frequently masked by references to 'White Risks Only' or 'substandard' or 'socio-economic' rating factors, past discriminatory practices may not be readily apparent."

Goodman told the companies they would need, therefore, to exercise a "very high degree of due diligence" in researching their files to respond to TDI's inquiry. Companies have 45 days to respond to the inquiry instead of the usual 10 days.

Some companies' practice of "race-based pricing" of industrial life policies in the 1950s, 1960s and early 1970s came to light recently as a result of a Florida Department of Insurance investigation. The Florida investigation found that some policies issued during that era are still in force with premiums higher for African-Americans than for whites. TDI is cooperating with the Florida inquiry.

Texas insurance law (*Texas Insurance Code* Article 3.52) defines industrial life policies as those whose premiums are paid weekly or which have death benefits of \$1,000 or less and premiums paid monthly or more often, but less often than weekly. Such policies typically are bought to pay funeral expenses. The Department's inquiry also extends to "small amount life insurance," which are

individual policies of \$10,000 or less, with premiums payable weekly or monthly by some means other than automatic checking account drafts.

Companies that find policies which, at the time of issue, were priced according to the customer's race are required to provide TDI certain information on those policies. This information includes:

- The policy forms themselves.
- Premium schedules and rating manuals.
- Documents showing how many such policies were sold, along with the face value and premiums for such policies sold in Texas each year from 1960 until now.
- Documentation of excess premium collected from African-American customers.
- Company documents relating to management discussions of race-based pricing.
- Documents about steps taken by the company to remedy and/or make restitution for race-based pricing.

Companies found to be engaging in race-based pricing are subject to disciplinary action under laws prohibiting unfair discrimination in the sale and pricing of insurance. ★

## More HMOs Reached Profitability in 1999

**A**LTHOUGH THE BASIC service HMO industry lost a record \$386.5 million on Texas business in 1999, the number of HMOs reporting after-tax profits rose substantially, according to a tabulation of annual statement data published in late May by TDI's Financial Program.

Of the 50 active basic service HMOs, 18 reported net after-tax profits on Texas-only business in 1999. By comparison, only 13 basic service HMOs were profitable in 1998.

Enrollment increased from 3,768,999 at the end of 1998 to 3,873,684 at the close of 1999. Un-audited first quarter 2000 reports indicate that enrollment may have jumped by another 450,000 lives in the first three months of this year.

Please see **HMOs** on page 9

### INSIDE

Montemayor Creates Electronic Signatures Task Force	2
Life Illustration Rules Take Effect	3
Davis Sentenced to 60 Years in Cleansheeting Scam	9

### Texas Insurance News

is published each month. For a one-year subscription (12 issues), contact TDI's Publications Division at:

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Texas Insurance News/MC-9999  
P.O. Box 149104  
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Enclose a check for \$30 made out to the Texas Department of Insurance.

If you have questions about subscribing, call Publications at (512) 322-4283.

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Texas Insurance News, MC-113-1A,  
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The staff that prepares this newsletter has no role in proposing, drafting, editing, or approving TDI rules or policies or interpreting statutes. **Texas Insurance News** should not be construed to represent the policy, endorsement or opinion of the Commissioner of Insurance or the Texas Department of Insurance.

By necessity, summaries of proposed and adopted rules cannot explain their full complexity. Readers interested in complete information about administrative rules should consult the versions published in the Texas Register.

To the best of the staff's ability, information presented in this newsletter is correct as of the publication date, but scheduled dates and proposed rules and amendments may change as the adoption process goes forward.

## NewsBriefs

### TDI's Frequently Visited Web Site to Get Facelift

**I**N THE THREE YEARS SINCE CREATION of TDI's Web site, the number of files it contains has grown from a few hundred to more than 5,000. "Hits" grew from 12,442 in February 1997 to 333,715 in February 2000—a 2,600 percent increase.

Meanwhile, reports of visitors having difficulties locating files also have increased. The situation has developed, in part, because so much information is available.

As a result, TDI's Web Team plans a redesign effort later this summer to make the Web site more organized and user friendly, as well as easier to maintain.

If you have suggestions for the redesign effort or particular problems with the current design that you would like solved, please e-mail them to [webmaster@tdi.state.tx.us](mailto:webmaster@tdi.state.tx.us). ★

### TAIPA Rates Oral Arguments Held

**C**OMMISSIONER JOSE MONTEMAYOR was scheduled to hear final arguments June 28, 2000, on proposed rate changes for the Texas Automobile Insurance Plan Association (TAIPA).

TAIPA is Texas' residual market for auto liability coverage, both private passenger and commercial. Companies may charge only rates promulgated by the Commissioner for TAIPA business.

Following are the recommendations of the parties and the administrative law judge who conducted the December 7, 1999, hearing on proposed TAIPA rates:

TAIPA	+13.4%
TDI Staff	+1.6%
Office of Public Insurance Counsel	-20.2% to -22.3%
Administrative Law Judge	-6.7%

### Electronic Signatures Task Force Created

**C**OMMISSIONER JOSE MONTEMAYOR has established a TDI internal task force on digital/electronic signatures.

Montemayor said the purpose of the task force is to identify and examine issues involving the use of digital and electronic signatures in insurance transactions in Texas.

"There is no Texas law authorizing digital signatures for insurance transactions; nevertheless, the Department is receiving requests to use digital and electronic signatures, and I want us to be on the leading edge of this issue," the Commissioner said.

The task force is headed by Norma Garcia, deputy commissioner in the Legal and Compliance Program. Other members are Lynda Nesenholtz, general counsel; Kim Stokes, senior associate commissioner of the Life, Health and Licensing Program; Marilyn Hamilton, deputy commissioner of the Personal and Commercial Lines Division; staff attorney Don Hanson; Elaine Powell, director of Business Planning and Redesign; Andy Robinson, director of Information Services; Jack Evins, director of the Advertising Unit; and Angel Broussard, a supervising analyst in the Financial Program. ★

### Mandated Benefits Study Goes to M&R

**TDI** HAS AWARDED a \$248,000 contract to Milliman & Robertson Inc. of Houston to study the impact of 13 mandated benefits on group health care premium costs.

M&R will report in July on how much the selected mandates affect premiums for both small employer and large employer health plans. Data will be broken down among HMOs, preferred provider plans and indemnity plans.

By September 30, M&R is required to complete a cost-benefit analysis that compares any additional premium cost attributed to the mandates with the financial impact and medical consequences that might result if the mandates did not exist. The contract also calls for M&R to recommend a methodology for use by the Legislature in estimating the cost of future mandated benefit bills.

M&R will submit its reports to TDI, which will present them to the Legislature's Joint Interim Committee on Mandated Benefits. ★

### TDI Requests Information On Child-Only Health Plans

**T**HE DEPARTMENT asked health insurers and HMOs in June to report on whether they offer health plans that cover children only as stand-alone plans or as family coverage plans that can be issued to children only.

The request for information went out on June 7, with a June 20 deadline for responses.

Companies that received TDI approval of individual health plan filings within the past five years were included in the survey.

A company indicating that it does offer plans for children only was asked additional questions about coverages provided and areas of the state where such plans are available. They also were asked if they take advantage of the premium tax exemption for children's health plans as provided in *Texas Insurance Code* Article 27.05.

The Department made the survey in the context of issues raised at a meeting of the board of directors of the Texas Healthy Kids Corporation, which the Legislature created as a mechanism for providing children-only health coverage. Commissioner Jose Montemayor serves on the corporation's board of directors. ★

### Data Call Reminders

#### Quarterly Closed Claims Reports

Reports of claims closed during the second quarter of 2000 are due July 10, 2000. The anticipated issue date for the annual closed claim reconciliation data call for 1999 data is late July 2000. TDI contact is Paul Vestal, 512 475-3024. E-mail address: [paul.vestal@tdi.state.tx.us](mailto:paul.vestal@tdi.state.tx.us) or Nita Rene Smith, 512 475-1999. E-mail address: [nita.rene.smith@tdi.state.tx.us](mailto:nita.rene.smith@tdi.state.tx.us)

#### Call for Quarterly Experience

The Call for Second Quarter 2000 Experience was mailed June 30, 2000 and is due August 15, 2000. The bulletin and forms may be downloaded from TDI's Web site, [www.tdi.state.tx.us](http://www.tdi.state.tx.us). TDI contact is Vicky Knox, 512 475-1879. E-mail address: [vicky.knox@tdi.state.tx.us](mailto:vicky.knox@tdi.state.tx.us)

#### Call for Quarterly Experience, Workers' Compensation Deductible Plans

The Call for Second Quarter 2000 Experience was mailed June 30, 2000 and is due August 15, 2000. The bulletin and forms may be downloaded from TDI's Web site, [www.tdi.state.tx.us](http://www.tdi.state.tx.us). TDI contact is Vicky Knox, 512 475-1879. E-mail address: [vicky.knox@tdi.state.tx.us](mailto:vicky.knox@tdi.state.tx.us)

#### Credit Data Call—Credit Life and Credit Accident & Health Insurance

The call for 1999 calendar year credit experience will be mailed in late July 2000, and will be due mid-September 2000. The bulletin, forms, and diskette program will be available for downloading from TDI's Web site, [www.tdi.state.tx.us](http://www.tdi.state.tx.us). TDI contact is Vicky Knox, 512 475-1879. E-mail address: [vicky.knox@tdi.state.tx.us](mailto:vicky.knox@tdi.state.tx.us) ★



## Life Illustration Rules Took Effect on July 1

**TDI's** LIFE INSURANCE illustration rules took effect July 1, 2000, after a 16-month delay to give companies time to reprogram computers while coping with Y2K, train sales forces and bring their illustrations into compliance with the new standards.

The rules, codified as 28 TAC §§ 21.2201-21.2214, apply to all group and individual life policies and certificates except for annuities, variable life, credit life and life policies with no illustrated death benefits exceeding \$10,000 on any one individual.

Insurers using illustrations must follow the rules in presentations for any policy sold on or after the effective date.

In addition, companies had a July 1 deadline to tell TDI in writing which of their policy forms will be marketed with illustrations. This written notification must be sent to:

**Texas Department of Insurance  
Filings Intake Division** (MC 106-1E)  
P. O. Box 149104  
Austin, TX 78714-9104

Future filings of new life policy forms affected by the rules must state whether illustrations will be used in marketing those forms. Insurers are not required to file illustrations with TDI.

Companies also are required to make annual certifications, which should be mailed to the Filings Intake, address given above. These certifications include appointment of an illustration actuary; information on the actuary's qualifications; an annual listing of forms illustrated; and the illustration actuary's certification regarding the company's disciplined current scale.

Former Commissioner Elton Bomer adopted the rules in September 1998. The rules are patterned after the NAIC Life Insurance Illustration Model Regulation but contain provisions unique to Texas. ★

## PersonalNotes

### Watson Appointed Fraud Unit Chief

**COMMISSIONER JOSE MONTEMAYOR** has appointed John Watson as associate commissioner in charge of the Insurance Fraud Unit. He replaces Linda Bayless, who has accepted a position with the Texas Workers' Compensation Commission.

Watson, a retired special agent for the FBI, joined the Fraud Unit in 1994 as an investigator. He came to the agency from the Travis County District Attorney's Office where he served in the Special Prosecutions Unit, Insurance Fraud Section. Prior to that, he worked as a private investigator and as an investigator for the Texas Workers' Compensation Commission and the Office of Attorney General.

The Florida native is a graduate of Florida Southern College. After graduation, he served with the U.S. Army as an infantry platoon leader for soldiers in basic training and as executive officer of an Army ordnance field supply company in Mannheim, Germany. He went on to become a special agent with the FBI for 23 years, serving at various posts around the country.

Watson holds a Master Peace Officers Certification, as well as an Instructor's license, and is a member of the Society of Former Special Agents of the FBI, the Texas District and County Attorneys Association and the Sheriffs Association of Texas. ★

### Nardecchia Receives P&C Lines Post

**DAVID NARDECCHIA**, a 20-year veteran of TDI, has been named director of the Personal and Commercial Lines Division.

In his new position, Nardecchia will advise Marilyn Hamilton, the deputy commissioner in charge of the division, on technical matters and assist her in the day-to-day management of the division, which is part of the Property and Casualty Program.

Nardecchia has worked in the Property Division in various positions, as supervisor of the Commercial Automobile Section and as manager in the Commercial Property/Casualty Division.

He attended Southwest Texas State University and Austin Community College, and completed a number of property and casualty courses, receiving his Chartered Property Casualty Underwriter (CPCU) designation in 1995. ★

### Worman Named Chief of Commercial P&C

**MARK WORMAN** has been named chief of the Commercial Property and Casualty Section of the Property and Casualty Program.

Before joining TDI in 1996, Worman served as an accounting and operations manager for Alexander & Alexander of California and with Jardine Insurance Brokers in their San Francisco offices.

At TDI, he has handled special projects for the Property and Casualty Group, served as assistant director of Title Examinations and worked as examinations coordinator in the Title Examinations Section. Since 1998, Worman has served as a manager in the Commercial Property and Casualty Division.

Worman earned his bachelor of business administration degree from Texas A&M University. ★

### Corum Heads Auto/Homeowners Section

**GROVER CORUM** has been named head of TDI's newly combined Auto/Homeowners Section of the Property and Casualty Program.

Corum, an 18-year veteran of the Department, has headed the Commercial and Personal Auto Section since 1992. Before joining TDI in 1981, he was employed for two years as an agent for Farmers Insurance Group and served 21 years in several management positions for State Farm Insurance Group.

He has earned the professional insurance designations of Chartered Life Underwriter (CLU) and Fellow Life Management Institute (FLMI). A native of North Carolina, he served four years in the U.S. Air Force and attended the University of Nebraska. ★

# RuleMaking

## LIFE INSURANCE

### APA Proposal

#### Illustration Rule Amendment

■ The Department has proposed amendments to 28 TAC § 21.2209, adding a new paragraph that would enable life insurers to mail illustrations to customers in lieu of personal delivery.

The new paragraph would provide that an illustration mailed to an applicant or policy owner must include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page and return the signed copy to the insurer. The insurer's obligation for meeting this requirement would be satisfied by a showing that the company, producer or authorized representative of the insurer made a diligent effort to secure a signed copy of the numeric summary page. This diligent effort requirement would be deemed satisfied if the company, producer or representative included in the mailing a self-addressed postage-prepaid envelope with instructions for the return of the signed numeric summary page.

If a policy is issued, the insurer would be required to retain a copy of the signed numeric summary page until three years after the policy is no longer in force.

Publication: 25TexReg5796, June 16, 2000  
Earliest possible adoption: July 16, 2000  
Further information: 512 463-6327

## LONG-TERM CARE

### APA Proposal

#### Standards for LTC Policies

■ The Department has proposed new 28 TAC § 3.3806, concerning conditions of eligibility for persons who may become covered under a long-term care insurance policy or certificate. The rules implement House Bill 1586 of the 76th Legislature, which amended *Texas Insurance Code* Article 3.70-12.

The rule lists the individuals eligible for coverage under a long-term care policy. It requires policies to include a provision stating the conditions under which long-term care coverage will become effective for someone who becomes insured after the policy and/or certificate is issued.

A policy and/or certificate would be required to contain a provision setting forth the people eligible for coverage. For group policies they

would be the certificate holder and his or her spouse, children, stepchildren, parents, parents-in-law and any other persons included as eligible individuals under the policies. For individual coverage, persons eligible for coverage under a policy would be the policyholder and his or her spouse, children, stepchildren, parents, parents-in-law and any other individuals included as eligible persons under a long-term care policy.

A policy and/or certificate would be required to state the conditions under which coverage would become effective for a person who becomes insured after the policy and/or certificate was issued. These conditions would have to include the time within which any action is to be taken by the individual and any requirements relating to:

- Evidence of insurability.
- The necessity of an application or a notice from the individual.
- Payment of premiums.

Publication: 25TexReg5126, June 2, 2000  
Earliest possible adoption: July 2, 2000  
Further information: 463-6327

## MEDICAL LIABILITY

### APA Adoption

#### JUA Reinsurance Program

■ Commissioner Jose Montemayor has adopted new 28 TAC § 5.2006, concerning the authority of the Texas Medical Liability Insurance Underwriting Association, also known as the "Joint Underwriting Association" or JUA, to cede and purchase reinsurance. The rule implements *Texas Insurance Code* Article 21.49-3, Section 3(b)(4).

The new rule requires the JUA to obtain the Commissioner's prior approval before implementing a reinsurance program. Among other things, a proposal submitted to the Commissioner must include:

- The reinsurance program's structure, terms and cost;
- Recommended percentage of reinsured business to be assumed by each individual reinsurer;
- A summary of the financial condition of each recommended reinsurer; and
- The JUA's anticipated administrative expenses for the program.

No later than 90 days before a reinsurance contract expires, the JUA must submit a proposed renewal reinsurance program or a

statement of why a reinsurance program is no longer necessary.

TDI proposed the rule to accommodate the inclusion of not-for-profit nursing homes as a category of providers eligible to buy coverage from the JUA; maintain the JUA's statutory purpose of providing medical liability insurance on a self-supporting basis; protect the operations of the JUA and the policyholder's stabilization reserve fund; and protect the state's general revenue.

Publication: 25TexReg5657, June 9, 2000  
Effective date: June 13, 2000  
Further information: 512 463-6327

## PROPERTY

### APA Proposal

#### Catastrophe Reserve Trust Fund

■ The Department has proposed new 28 TAC §§ 5.9901-5.9906, concerning the Catastrophe Reserve Trust Fund created by the Legislature as a source of funding for a layer of Texas Windstorm Insurance Association losses and loss adjustment expenses in the event of a hurricane. The proposed rules would implement House Bill 2253 of the 76th Legislature, which amended *Texas Insurance Code* Article 21.49.

House Bill 2253 and the proposed rules provide that insurers relinquish their net equity in the Catastrophe Reserve Trust fund on an annual basis. The bill and the proposed rules clarify that the trust fund is a state fund exempt from federal and state income taxation.

Under Texas law, the trust fund and any reinsurance purchased by the TWIA are to be used to pay claims that exceed TWIA premiums for the calendar year plus a \$100 million assessment of member companies.

The rules would specify that the trust fund is administered by the state Comptroller of Public Accounts and is held outside the state treasury on behalf of, and with legal title in, the Texas Department of Insurance. The Texas Treasury Safekeeping Trust Company, a special purpose trust company managed by the Comptroller, would receive, invest, hold, manage and disburse all money deposited into the trust fund.

TWIA members' net equity includes all premium and other revenue of the association in excess of incurred losses and operating expenses. The proposed rules would require

# Rule Making

TWIA to pay the net equity of its members each year directly to the Comptroller for deposit in the trust fund. The net equity payments would fund the trust fund's obligations under *Texas Insurance Code* Article 21.49, Section 19(a). The net equity payments also would fund the mitigation and preparedness plan required under *Texas Insurance Code* Article 21.49, Section 8(i).

The proposed rules spell out when and how funds may be disbursed from the trust fund. When TWIA reasonably estimates there has been an "ultimate net loss," its general manager would notify TDI and the Comptroller promptly in writing of the total amount of this loss. Ultimate net loss is defined as any loss event caused by one or more occurrences in a single calendar year resulting in insured losses and associated loss adjustment expenses totaling more than \$100 million. The Department could require TWIA to provide additional information. The Commissioner or authorized representative of the Department would notify the Comptroller in writing to pay TWIA the portion of the ultimate net loss that exceeds the \$100 million assessed against member companies, plus available reinsurance. TWIA would have to remit to the trust fund or to an approved reinsurance program any money received from the trust fund but not spent to pay losses and loss adjustment expenses.

The trust company also could disburse funds for an annual mitigation and preparedness plan based on a letter of instruction from the Commissioner or authorized representative that states the distribution is in accordance with *Texas Insurance Code* Article 21.49, Section 8(i). For other expenses associated with maintaining or managing the trust fund, the Commissioner or representative would issue a letter of instruction to the trust company, specifying how much to pay and specifying any third party payee.

TDI would pay the trust company an amount sufficient to reimburse it for the actual monthly costs of administering and maintaining the trust fund. The trust company would record trust fund transactions in accordance with generally accepted accounting principles and make those records available for inspection by TDI.

The trust company could intermingle trust fund money with other funds for the purposes

of common investment and operational efficiency.

If the Legislature terminated the trust fund, all assets of the trust fund would revert to the state and would be used by the Department to finance the annual loss mitigation and preparedness plan.

*Publication: 25TexReg5554, June 9, 2000*

*Earliest possible adoption: July 9, 2000*

*Further information: 512 463-6327*

## APA Adoptions

### Inland Marine Insurance

#### Auto Floor Plan Coverage

■ Commissioner Jose Montemayor has adopted an amendment to 28 TAC § 5.5002, deleting language that currently excludes automobiles or other motor vehicles from floor plan coverage under inland marine policies. The rule change allows insurers to cover auto dealers' inventories under floor plan policies if the inventories meet certain eligibility requirements. Financed auto dealer inventories typically meet such requirements.

Under previous rules, insurers could provide coverage for auto dealers' inventories only as part of a commercial multi-peril policy or as motor vehicle insurance under a single contract. The newly adopted rule change gives insurers the option of covering auto dealer inventories as either inland marine insurance or as motor vehicle insurance.

As a type of inland marine insurance, rules, rates and forms for floor plan policies covering motor vehicles must be filed only once with TDI instead of annually. In addition, insurers providing this coverage no longer are required to file individual risk submissions with TDI.

*Publication: 25TexReg5349, June 2, 2000*

*Effective date June 11, 2000*

*Further information: 512 463-6327*

### Residential Property Insurance Market Assistance Program

■ Commissioner Jose Montemayor has adopted amendments to 28 TAC §§ 5.9403, 5.9404, 5.9406, 5.9409, 5.9410 and 5.9411 concerning the Residential Property Insurance Market Assistance Program (MAP) mandated by *Texas Insurance Code* Article 21.49-12. The rule changes implement provisions of Senate Bills 323 and 324 of the 76th Legislature.

The MAP is a mechanism to help owners or renters of property in underserved areas find

homeowners, renters and other residential property insurance in the admitted market. TDI faxes information from eligible applications to voluntarily participating insurers.

The newly adopted amendments authorize TDI staff to complete MAP applications on behalf of applicants and submit them directly to participating insurers. Previously, applications could be completed only by licensed local recording agents, who submitted them to TDI for transmission to the participating companies. Under the new rules, applicants have the option of applying through an agent or through TDI.

TDI staff members receiving applications by phone request documentation to verify that an applicant has been unable to obtain insurance in the admitted market within the preceding year. If asked to do so, a staff member will make a diligent effort to help an applicant to obtain the necessary documentation. Applications taken by phone must be initialed and dated by the staff members who helped complete them, in lieu of the applicant's signature.

Existing rules requiring confidentiality of application files and related documents are repealed, pursuant to provisions of SB 324.

Under the rules and provisions of Senate Bill 324, farm and ranch and farm and ranch owners insurance no longer may be requested through the MAP. The Legislature has deemed these coverages to be commercial, not residential.

*Projected publication date: June 23, April 14, 2000*

*Effective date: June 26, 2000*

*Further information: 512 463-6327*

## TITLE

### APA Adoption

#### Reverse Mortgage Rule and Forms

■ Commissioner Jose Montemayor has amended Procedural Rule P-45, Texas Reverse Mortgage Endorsement (T-43), and the Texas Reverse Mortgage Endorsement (Form T-43), which are contained in the Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas.

The amendments enable title insurance companies to issue title policies on reverse mortgages. Such mortgages had not been issued in Texas because of previous ambiguities and inconsistencies in state laws authorizing them.

*Continued on page 6*

## RuleMaking

However, a constitutional amendment adopted on November 2, 1999, eliminated those problems and conformed Texas law to requirements of the Federal National Mortgage Association ("Fannie Mae") and the U. S. Department of Housing and Urban Development.

The changes to Form T-43 make the form more consistent with the constitutional amendment and clarify the reverse mortgage coverages that can be underwritten by title companies in a form acceptable to Fannie Mae. These coverages insure against the invalidity of a lien because of:

- Failure to comply with the requirement that the owner of the mortgaged property, or one of the spouses in the case of joint ownership by a married couple, be 62 or older;
- Failure of the owner to execute at closing a document stating that the owner received counseling about the advisability and availability of reverse mortgages and other financial alternatives, or
- Failure of the owner to receive a disclosure at closing about the circumstances under which the lender can require payment of the loan. (These circumstances include death of the borrower or borrowers, sale of the home and cessation of occupancy of the home for 12 months or longer without approval.)

The adopted changes to Procedural Rule P-45, Texas Reverse Mortgage Endorsement (T-43), retain the present wording of the rule and add general requirements and limitations for the issuance of coverage. The rule also provides that a title company may delete certain provisions of the endorsement if the company does not consider the additional risk insurable. The company must delete certain provisions of the endorsement in such instances as failure to execute the insured mortgage and promissory note at the office of a title company.

Publication: 25TexReg5350, June 2, 2000  
Effective date: June 5, 2000  
Further information: 512 463-6327 ★



## LegalNotes

### Court of Appeals Rules on Duty to Insureds

By Ann Bright, Section Chief, Agency Counsel Section, Legal and Compliance Division.

**T**EXAS INSURANCE CODE Article 21.21, Section 4, lists certain claims settlement practices that are considered "unfair or deceptive acts or practices in the business of insurance." The Texas Deceptive Trade Practices Act (DTPA) allows a consumer to file a lawsuit to recover damages resulting from a violation of Article 21.21. The DTPA also allows the recovery of additional damages for conduct committed knowingly or intentionally.

In addition, Texas courts have determined that an insurance company owes a duty of good faith and fair dealing to its insureds. An insurance company breaches its duty of good faith and fair dealing if it fails to settle a claim when the insurer knew or should have known that it was reasonably clear that the claim was covered. *Universe Life Insurance Co. v. Giles*, 950 S.W.2d 48, 54 (Tex.1997).

In a recent case, the Dallas Court of Appeals decided whether homeowners had presented enough evidence to prove that their insurance company had violated its duty of good faith and fair dealing and had engaged in knowing and intentional conduct in violation of the DTPA.

#### Texas Farmers Insurance Company v. Cameron

A husband and wife, Alfred and Cloteal Cameron (the Camerons), had a homeowners insurance policy on their home with Texas Farmers Insurance Co. (Farmers). The policy limits were \$60,000 for the structure and \$36,000 for the contents. On March 29, 1995, a fire destroyed the Camerons' home. Everyone agreed that the fire was the result of arson. At the time of the fire, Alfred was at the Horseshoe Casino in Shreveport, Louisiana, with a friend. Cloteal was with her daughter at her daughter's apartment. The Camerons notified Farmers of the fire.

With the assistance of a public adjuster, the Camerons completed the required claim forms. The claim forms showed that the structure had a value of \$60,000 and a replacement cost of \$75,000. The inventory showed \$36,000 in damage to the contents. The Camerons also provided Farmers with affidavits from Alfred's friend and Cloteal's daughter regarding the Camerons' whereabouts at the time of the fire.

Tony Poncio, a Farmers claims manager, denied the claim. He stated that Farmers believed that the fire was intentionally set by the Camerons or by

someone instructed by the Camerons. Poncio also stated that the Camerons had made misrepresentations during the arson investigation and quoted a provision of the insurance policy stating that the policy was void in the event of material misrepresentations by the insureds. Poncio did not otherwise declare the policy void, nor did Farmers return any previously paid premiums to the Camerons.

The Camerons sued Farmers. The Camerons alleged, among other things, that Farmers breached its contract with the Camerons, that Farmers breached its duty of good faith and fair dealing and that Farmers had engaged in knowing and intentional conduct and unfair claims settlement practices in violation of the Texas Insurance Code and the DTPA.

At the trial of the case, evidence was presented regarding the reasons that Farmers denied the claim. Farmers had concluded that the Camerons had financial trouble. Farmers had determined that financial trouble was a motive for arson. Farmers decided that the Camerons had a small amount of savings (about \$3,000), in spite of their annual salaries (about \$90,000 combined).

Farmers presented evidence showing that during a 24-month period, the Camerons had been late in paying several credit card bills. However, other evidence showed that at the time of the fire, the Camerons were current on all their debts. In addition, Alfred's credit was good enough for him to purchase a new house.

There was also evidence that the fire marshal at the scene of the fire had told a Farmers representative that Alfred had gambling debts. However, Farmers never followed up to determine whether Alfred actually did have gambling debts. It was ultimately determined that there was no evidence of gambling debts.

Farmers also presented evidence showing that three years earlier, a fire had occurred in rental property owned by the Camerons. The insurance policy on the rental property was only a few months old at the time of the fire. However, the fire on the rental property was determined to have been caused by a wall heater. The insurer on the rental property, Delta Lloyds, had paid the claim. Farmers had never attempted to get Delta Lloyds' file on the rental property fire.

Continued on page 7

Entities Holding a Certificate of Authority in Texas as of May 31, 2000

**Types and Totals**

	MAY 31, 2000			APRIL 30, 2000			DECEMBER 31, 1999		
	TEXAS	FOREIGN	TOTAL	TEXAS	FOREIGN	TOTAL	TEXAS	FOREIGN	TOTAL
Stock Life Insurance Companies	142	553	695	142	553	695	147	557	704
Mutual Life Insurance Companies	2	58	60	2	58	60	2	61	63
Stipulated Premium Companies	42	0	42	42	0	42	42	0	42
Non-Profit Life Companies	0	1	1	0	1	1	0	1	1
Stock Fire Insurance Companies	1	4	5	1	4	5	1	4	5
Stock Fire & Casualty Companies	109	656	765	109	656	765	110	652	762
Mutual Fire & Casualty Companies	7	58	65	7	58	65	7	60	67
Stock Casualty Companies	8	114	122	8	114	122	9	109	118
Mexican Casualty Companies	0	8	8	0	8	8	0	8	8
Lloyds	65	0	65	65	0	65	66	0	66
Reciprocal Exchanges	11	16	27	11	16	27	11	15	26
Fraternal Benefit Societies	10	26	36	10	26	36	10	26	36
Title Insurance Companies	4	19	23	4	19	23	4	19	23
Non-Profit Legal Services Corps.	2	0	2	2	0	2	2	0	2
Health Maintenance Organizations	65	2	67	65	2	67	66	3	69
Risk Retention Groups	1	0	1	1	0	1	1	0	1
Third Party Administrators	281	398	679	281	398	679	273	392	665
Joint Underwriting Associations	0	6	6	0	6	6	0	7	7
Multiple Employer Welfare Assoc.	4	3	7	4	3	7	5	3	8
Continuing Care Retirement	17	2	19	17	2	19	17	2	19
<b>Total</b>	<b>771</b>	<b>1924</b>	<b>2695</b>	<b>771</b>	<b>1924</b>	<b>2695</b>	<b>773</b>	<b>1919</b>	<b>2692</b>
Statewide Mutual Assessment Life, Accident and Health Companies	1	0	1	1	0	1	1	0	1
Local Mutual Aid Associations	7	0	7	7	0	7	7	0	7
Local Mutual Burials Associations	2	0	2	2	0	2	2	0	2
Exempt Associations	10	0	10	10	0	10	12	0	12
Non-Profit Hospital Service Corps.	3	0	3	3	0	3	2	0	2
County Mutual Fire Companies	24	0	24	24	0	24	24	0	24
Farm Mutual Fire Companies	19	0	19	19	0	19	19	0	19
<b>Total</b>	<b>66</b>	<b>0</b>	<b>66</b>	<b>66</b>	<b>0</b>	<b>66</b>	<b>67</b>	<b>0</b>	<b>67</b>
<b>Grand Total</b>	<b>837</b>	<b>1924</b>	<b>2761</b>	<b>837</b>	<b>1924</b>	<b>2761</b>	<b>840</b>	<b>1919</b>	<b>2759</b>

**LegalNotes...** from page 6

The trial court determined that neither Alfred or Cloteal were responsible for the fire. The trial court also determined, among other things, that Farmers breached its contract with the Camerons; "that Farmers breached its duty of good faith and fair dealing to the Camerons; that Farmers engaged in an unfair claim settlement practice and that Farmers acted knowingly or intentionally." The trial court awarded the Camerons, among other things, \$60,000 for destruction of their home, \$36,000 for destruction of the contents, and \$500,000 for Farmers' knowing and intentional conduct.

After the trial, Farmers agreed to pay the Camerons \$60,000 for destruction of their home and \$36,000 for destruction of the contents.

Farmers appealed the part of the decision which concluded that Farmers had violated the duty of good faith and fair dealing and had engaged in intentional and knowing conduct in violation of the DTPA.

Farmers argued that the evidence presented at the trial was not factually or legally sufficient to support the trial court's decision. The Dallas Court of Appeals (the court) stated that it must uphold the trial court's decision if "there is more than a scintilla of evidence to support a finding" and if the decision was not "so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust."

The court reviewed the evidence and determined that enough evidence was presented at trial to

support the decision of the trial court. Therefore, the court upheld the trial court decision that Farmers had breached its duty of good faith and fair dealing, had engaged in unfair claims settlement practices in violation of the DTPA and had engaged in such conduct knowingly and intentionally.

(The court also addressed other allegations made by the Camerons, including claims of mental anguish and failure to promptly reject the Camerons' claim in violation of Texas Insurance Code Article 21.55. For information about these and other claims, please consult the opinion of the court.) *Texas Farmers Insurance Company v. Cameron*, 2000 WL 225887 (Tex. App.-Austin 2000). ★

## KEY TELEPHONELIST

DIVISION	NAME	PHONE	MAIL CODE
<b>Commissioner of Insurance</b>	Jose Montemayor	463-6468	113-1C
General Counsel & Chief Clerk	Lynda Nesenholtz	305-7351	113-2A
Office of Chief Clerk		463-6326	113-2A
Government Relations	David Durden	463-6651	113-3A
Public Information Office	Jim Davis	463-6425	113-1A
Chief Economist	Emilio (Joe) Palermo	305-7194	113-1C
<b>Senior Associate Commissioner &amp; Chief of Staff</b>	Stan Wedel	305-7249	113-1C
Information Services (Data Processing)-Director	Andy Robinson	463-0819	102-IS
<b>Legal &amp; Compliance-Senior Associate Commissioner</b>	Sara Shippet Waitt	463-6109	110-1A
<b>Insurance Fraud Program-Associate Commissioner</b>	John Watston	305-8159	109-3A
<b>Life, Health &amp; Licensing-Senior Associate Commissioner</b>	Kim Stokes	305-7310	107-2A
<b>Licensing-Deputy Commissioner</b>	Matt Ray	463-8917	107-1A
TPA/Premium Finance	Chuck Waits	322-3412	107-5A
Agents Licensing		322-3503	107-1A
<b>Life/Health Division-Deputy Commissioner</b>	Ana Smith-Daley	322-3401	106-1A
Accident & Health	Cindy Carpenter	322-3409	106-1D
Life, Annuity & Credit	Lynn Carlson	322-3406	106-1E
<b>HMO/URA Division-Deputy Commissioner</b>	Blake Broderson	322-4266	103-6A
<b>Filings Intake-Deputy Commissioner</b>	Angelia Johnson	322-3575	104-3B
Life/Health & HMO Intake	Belinda Reveles	322-4245	106-1E
Property & Casualty Intake	Cindy Grimm	322-3575	104-3B
<b>Property &amp; Casualty-Senior Associate Commissioner</b>	C. H. Mah	322-3587	105-5G
<b>Data Services</b>	Clare Pramuk	475-1878	105-5D
Market Assistance Program	Kathy Graf	322-2290	105-5D
<b>Property &amp; Casualty Actuarial</b>	Philip Presley	475-3017	105-5F
<b>Personal &amp; Commercial Lines-Deputy Commissioner</b>	Marilyn Hamilton	322-2265	104-PC
Director	David Nardecchia	305-7544	104-PC
<b>Automobile/Homeowners-Manager</b>	Grover Corum	322-3430	104-1A
Commercial Automobile	Leslie Hurley	305-7435	104-1C
Personal Automobile	Leslie Hurley	322-3471	104-1A
Homeowners	Gary Julian	322-2266	104-1F
<b>Commercial Property/Casualty-Manager</b>	Mark Worman	305-7544	104-PC
Bond, Crime & Glass	Irwin Thomas	322-3475	104-PC
General Liability	Melvin Smith	322-3460	104-PC
Commercial Property	Georgia Keysor	322-2243	104-PC
Professional Liability	Kenneth McDaniel	322-3445	104-PC
<b>Workers' Compensation-Deputy Commissioner</b>	Nancy Moore	322-3486	105-2A
Classification	Joel Isgrig	322-3493	105-2A
Oversight Group	Pat Brabham	322-3495	105-2A
Group Ins./Deductible/Retrospective Rating	Vicki Martinka	322-3459	105-2A
Employee Leasing	Jerry Schwab	322-3495	105-2A
<b>Inspections-Deputy Commissioner</b>	Alexis Dick	322-2235	103-1A
Commercial Property Oversight	Richard Baker	322-2259	103-1D
Engineering	Billy Ray Guerin	322-2212	103-3A
Windstorm Inspection	Welch V. Watt	322-2203	103-1E
Loss Control	Richard Baker	322-3435	103-9A
<b>Title Division-Deputy Commissioner</b>	Robert Carter	322-3482	106-2T
Title Examinations	Ethel Benedict	322-5027	106-2T
<b>Financial-Senior Associate Commissioner</b>	Betty Patterson	322-5040	305-2A
Deputy Commissioner	Kevin Brady	305-6788	305-2A
Actuarial	Mike Boerner	322-5067	302-3A
Company Licensing and Registration-Director	Godwin Ohaechesi	322-3507	305-2C
Licensing-Admitted Companies & HMOs-Director	Jeff Hunt	322-4370	305-2C
Registration-Surplus Lines/Foreign Risk Retention/Purchasing Groups	Kathy Wilcox	322-3535	305-2C
Statutory Deposits	Tina Martinez-Saucedo	322-4124	305-2C
Early Warning Group	Scott Kyle	322-3467	105-5A
Contract Administration	Jim Helfrich	475-1867	105-5C
Financial Analysis/Examinations	Danny Saenz	322-5002	303-1A
Conservation	Neal Rockhold	322-4162	305-1C
<b>Consumer Protection-Associate Commissioner</b>	Audrey Selden	322-4309	111-1A
Complaints Resolution, Life, Accident & Health	Mike Jackson	463-6500	111-1A
Complaints Resolution, Property & Casualty	Valerie Brown	463-6500	111-1A
Advertising Unit	Jack Evins	475-1949	111-2A



## Fraud Unit Prosecutions

### Indictments

**Hout, Jackie Joe**, indicted in El Paso on charges of misapplication of fiduciary property, a state jail felony.

**Martinez, Luis**, indicted in El Paso on charges of theft, a state jail felony.

**Samuels, Eric**, indicted in Dallas on charges of securing execution of a document by deception, a second-degree felony.

**Garcia, Jose Hector**, indicted in El Paso on charges of tampering with a governmental record, a second-degree felony.

**Garcia, Sergio Enrique**, indicted in El Paso on charges of tampering with a governmental record, a second-degree felony.

**Tudyk, Charles**, indicted in San Antonio on charges of unauthorized insurance, a third degree felony.

**Tudyk, Linnette**, indicted in San Antonio on charges of unauthorized insurance, a third degree felony.

**Buchanan, Jimmy Lee**, indicted in Galveston on charges of theft, a state jail felony.

### Convictions

**Ivy, Richard Glenn**, pleaded guilty in U. S. District Court for the Northern District of Texas to charges of attempted income tax evasion and was sentenced to five years probation, \$41,289 in restitution and a \$100 fine.

**Ivy, Joetta B.**, pleaded guilty in U. S. District Court for the Northern District of Texas to charges of submitting a false tax return and was sentenced to three years probation, \$41,289 in restitution and a \$100 fine. ★

# Enforcement Actions

## Clean Sheeting Ringleader Gets 60 Years

**S**TATE DISTRICT JUDGE HAROLD ENTZ of Dallas has sentenced Michael Lee Davis to 60 years in prison for a "clean sheeting" scam that led insurance companies to issue life insurance policies to people with life-threatening diseases.

Entz also ordered Davis to pay \$5.6 million in restitution to investors hurt by the scheme. Entz earlier had convicted Davis of money laundering and securing the execution of documents by deception. Davis had requested trial by the judge rather than a jury.

"Insurance fraud is one of the most insidious of all white collar crimes," said Insurance Commissioner Jose Montemayor. "By imposing a tough sentence on Michael Lee Davis, Judge Entz has sent a message that should deter others who might be tempted to engage in clean sheeting and other forms of insurance fraud."

The Insurance Fraud Unit of the Texas Department of Insurance, the State Securities Board and the Dallas County District Attorney's office developed evidence in the case. Dallas County Assistant District Attorney Brian Flood was lead prosecutor.

Witnesses at Davis' trial testified that Davis and another man recruited HIV-positive individuals and sent them to Sammy Squyres II, an insurance

agent who helped them apply to several life insurance companies he represented. Squyres pleaded guilty to charges of forgery and securing the execution of a document by deception. He was sentenced to 10 years' probation, with 180 days actually to be spent in jail.

More than 20 other people involved in Davis' scheme to defraud life insurers entered guilty pleas to charges of securing the execution of documents by deception. Several testified at Davis' trial that they were HIV-positive but lied about their condition to obtain policies that they later sold through Davis on the viatical settlement market.

The life insurance applications disclosed no health problems, although the individuals were HIV-positive or suffering from other life-threatening illnesses. The applications were for policies with death benefits falling below the insurance companies' thresholds for requiring medical examinations. The death benefits ranged from \$25,000 to \$100,000.

Davis, 45, legally changed his name from Walter Alfred Waldhauser Jr. after being paroled on a 1981 Houston murder conviction in 1990. He became involved in the viatical settlement industry as vice president of marketing for Southwest Viatical Inc. and opened a viatical settlement company called First American Fidelity Corp. in 1997. ★

### HMOs... from page 1

The tabulation of annual statement data showed four consecutive years of red ink for the HMOs' Texas business, with 1996-1999 losses totaling \$1 billion.

Unaudited first-quarter 2000 reports, meanwhile, indicate continuation of the basic service HMO losses, although at a slower pace than in the previous three quarters. The reports showed first quarter after-tax losses totaling \$78.3 million on Texas business, compared to \$81.2 million in the 4th quarter of 1999, \$157.1 million in the 3rd quarter and \$102.5 million in the 2nd quarter.

"The improvements shown in the first quarter HMO financial statements indicate that the anticipated turnaround in profitability may, in fact, have begun," said Commissioner Jose Montemayor.

He said there was a number of reasons for expecting such a turnaround.

"We've had several major consolidations, which can't help but reduce expenses," he said. "On the income side, we're in the second year of TDI rules that, in effect, require HMOs with insufficient premiums to raise premiums, over time, to a level that will cover anticipated expenses. In addition, the 1999 Legislature established stronger capitalization requirements. All these changes appear to be working together to move the HMO industry toward the goal of self-sufficiency."

Single service HMO enrollment in Texas grew from 2,421,847 members in 1998 to 2,882,389 members at the end of 1999. Their after-tax net income on Texas business was \$21,379,924 million in 1999, just under the \$21,451,053 they posted on Texas business in 1998. Sixteen of the 19 active single service HMOs were profitable in 1999.

Unaudited quarterly reports indicate that Texas enrollment in single service HMOs dropped to 2,477,142 lives during the first three months of 2000 and they had net income after taxes of \$5,174,170. ★

# Company Licensing

## Applications Pending

### For admission to do business in Texas

COMPANY NAME	LINE	HOME OFFICE
Affinity Group Underwriters Inc.	TPA	Glen Allen, VA
Insurance Answer Center Inc.	TPA	Wilmington, DE
Key Benefit Administrators Inc.	TPA	Indianapolis, IN
Matrix Absence Management Inc.	TPA	Wilmington, DE
Phase II Systems Inc.	TPA	Newport Beach, CA
Rewards Plus of America Insurance Agency Inc.	TPA	Baltimore, MD
SAI PLUS Health Plan, L.L.C.	TPA	Rockville, MD
Safety First Insurance Co.	Fire & Casualty	St. Louis, MO
Star Administrative Services Inc.	TPA	Phoenix, AZ

### For incorporation

COMPANY NAME	LINE	HOME OFFICE
Caprock Healthplans Inc.	TPA	Lubbock, TX
webTPA.com Employer Services, L.L.C.	TPA	Grand Prairie, TX

### For name change in Texas

FROM	TO	LINE	LOCATION
Bradford National Life Insurance Co.	Ullico Life Insurance Co.	Life	Austin, TX

## Applications Approved

### For admission to do business in Texas

COMPANY NAME	LINE	HOME OFFICE
Banc One Kentucky Insurance Co.	Life	Louisville, KY
Benefit Land Title Insurance Co.	Title	Santa Ana, CA
Commonwealth Insurance Company of America	Fire & Casualty	Seattle, WA
Leaders Life Insurance Co.	Life	Tulsa, OK
Mendota Insurance Co.	Fire & Casualty	Mendota, MN
21st Century Insurance Co.	Fire & Casualty	Woodland Hills, CA

### For incorporation

COMPANY	LINE	HOME OFFICE
Administrative Solutions Inc.	TPA	Austin, TX
Coordinated Care Solutions of Texas Inc.	HMO	Austin, TX
Discount Services Inc.	TPA	Dallas, TX
Jersey Life insurance Co.	Life	Pearland, TX
Orthopedic Physicians of Texas Association	TPA	Houston, TX
Texas Health Insurance Risk Pool	Life	Austin, TX
Texas Select Lloyds Insurance Co.	Fire & Casualty	San Antonio, TX
Vision Choice, P.A.	TPA	Houston, TX

### For name change in Texas

FROM	TO	LINE	LOCATION
Financial Insurance Management Corporation	The Financial Group Inc.	TPA	Metairie, LA
Gallagher Benefit Services of Colorado, Inc. dba Byerly & Co. Inc.	Gallagher Byerly Inc.	TPA	Englewood, CO
Independent Fire Insurance Co.	State National Specialty Insurance Co.	Fire & Casualty	Jacksonville, FL
NASRA T.P.A. Corporation dba HCC Administrators Inc.	HCC Administrators Inc.	TPA	Deerfield, IL
NAVISYS Insurance Solutions Inc.	NAVISYS Incorporated	TPA	St. Louis, MO
NYLCare Health Plans of the Gulf Coast, Inc.	Texas Gulf Coast HMO Inc.	HMO	Houston, TX
NYLCare Health Plans of the Southwest Inc.	Southwest Texas HMO Inc.	HMO	Irving, TX
TOA-Re Insurance Company of America, The Dover, DE	TOA Reinsurance Company of America, The	Fire & Casualty	Wilmington, DE
Value Behavioral Health of Texas Inc.	Valueoptions of Texas Inc.	TPA	Irving, TX

# Disciplinary Actions

**Editor's Note:** Copies of individual orders may be obtained by calling TDI's Public Information Office, 512 463-6425.

<b>AGENTS &amp; AGENCIES</b>	<b>NAME</b>	<b>CITY</b>	<b>ACTION TAKEN</b>	<b>VIOLATION</b>	<b>ORDER</b>	<b>DATE</b>
	Benchmark Title Services, L. L. C.	Frisco	\$20,000 Fine and Cease-and-Desist Order	Consent Order; Alleged Receiving Referral Fees from Lawyers; Escrow Account Violations	00-0496	5/5/00
	Edo-Imioya, Emmanuel Osa	Dallas	Adjuster's and Group I Agent's Licenses Revoked	Fraudulent or Dishonest Practices	00-0516	5/11/00
	De Leon, Claudia	San Antonio	Local Recording Agent's License Revoked	Failure to Meet Continuing Education Requirements	00-0557	5/19/00
	Delgado, Maira Mirella	Houston	Prepaid Legal Services Agent's License Denied	Felony Conviction; Material Misrepresentation on License Application	00-0556	5/19/00
	Fontenot, Susan	Deer Park	Local Recording Agent's License Revoked; Restitution	Fraudulent or Dishonest Acts	00-0452	4/21/00
	Hosch, James Donald <i>dba Senior Services</i>	Lubbock	\$5,000 Fine	Advertising Violations Misleading Trade-Style Name	00-0489	5/3/00
	Hutchens, John M.	Euless	Solicitor's License Revoked	Failure to Meet Continuing Education Requirements	00-0517	5/11/00
	Martinez, Luis Edgar	El Paso	Group I and Local Recording Agent's Licenses Revoked	Fraudulent and Dishonest Acts	00-0427	4/17/00
	McKnight, Laurie A. <i>dba "The Bail Bond Center"</i>	Longview	Local Recording Agent's License Revoked and \$3,000 Fine	Charging Excessive Rates for Surety Bonds; Payment of Commissions to Unlicensed Persons	00-0495	5/5/00
	Osborne, William Anthony	Plano	\$5,000 Fine	Material Misrepresentation on License Application	00-0577	5/24/00
	Sheetz, William S. Jr. <i>dba "Allied Insurance Agency"</i>	Garland	Local Recording Agent's License Revoked	Fraudulent or Dishonest Acts	00-0555	5/19/00
	Tesch, Carol E.	Waller	Group I and Local Recording Agent's Licenses Revoked	Failure to Meet Continuing Education Requirements	00-0605	5/31/00
	Van Weir, Richard	Addison	Local Recording Agent's, Managing General Agent's and Surplus Lines Agent's Licenses Revoked	Felony Conviction	00-0546	5/19/00
	Zodin, Scott L.	Austin	\$3,000 Fine	Failure to Meet Continuing Education Requirements	00-0604	5/31/00
<b>COMPANIES</b>	<b>NAME</b>	<b>CITY</b>	<b>ACTION TAKEN</b>	<b>VIOLATION</b>	<b>ORDER</b>	<b>DATE</b>
	Federal Insurance Co.	Warren, NJ	\$7,500 Fine	Failure to File Commercial Auto Experience Rating Data	00-0541	5/17/00
	Gulf Insurance Co. and Select Insurance Co.	New York, NY	\$1,450 Fine	Failure to File Commercial Auto Experience Rating Data	00-0540	5/17/00
	Hartford Life & Accident Insurance Co.	Hartford, CT	\$5,000 Fine	Consent Order; Alleged Rebating and Advertising Violations	00-0549	5/19/00
	Hartford Life & Annuity Insurance Co.	Hartford, CT	\$5,000 Fine	Consent Order; Alleged Rebating and Advertising Violations	00-0547	5/19/00
	Hartford Life Insurance Co.	Hartford, CT	\$5,000 Fine	Consent Order; Alleged Rebating and Advertising Violations	00-0548	5/19/00
	International Fidelity Insurance Co.	Newark, NJ	Order Requiring IFIC to Notify Agents to Use Only Approved Bail Bond Rates; to Allow Only Licensed Employees to Market Bonds; and to Make Refunds to Persons Overcharged for Bonds by Laurie A. McKnight	Consent Order; Alleged Failure to Supervise Agent Laurie A. McKnight (See Entry Concerning Order No. 00-0495)	00-0514	5/11/00
	Private Healthcare Systems Inc.	Waltham, MA	\$3,000 Fine	Use of Contracts Indicating Unlicensed Third-Party Administrator Activities	00-0550	5/19/00
	Provident American Life & Health Insurance Co.	Norristown, PA	\$10,000 Fine	Consent Order; Alleged Claim Payment Violations	00-0579	5/24/00
	Provident Indemnity Life Insurance Co.	Norristown, PA	\$10,000 Fine	Consent Order; Alleged Claim Payment Violations	00-0580	5/24/00
	Reliance National Indemnity Co.	Madison, WI	\$20,000 Fine	Consent Order; Alleged Use of Unapproved Policies and Endorsements	00-0515	5/11/00
	USAA Life Insurance Co.	San Antonio	\$10,000 Fine	Consent Order; Alleged Unlawful Inducements to Buy New Annuities	00-0492	5/4/00

## Inspections Division Preaches Mitigation in Coastal News Conferences

**S**TAFF FROM TDI's Inspections Division marked the arrival of hurricane season with three news conferences along the Texas coast to urge construction of windstorm-resistant houses that meet the state's new building code.

TDI and the Texas Windstorm Insurance Association (TWIA) also are promoting use of the building code by airing ads in July on both English and Spanish television stations along the coast. The TV spots offer viewers a toll-free number to call for more information about the code and windstorm inspections.

News conferences were held May 30, May 31 and June 1, the official starting date of hurricane season, which lasts until November 30. The news conferences were in League City, near Houston; Rockport, near Corpus Christi; and Brownsville.

Welch Watt, windstorm inspection manager, and Sam Nelson, chief engineer, said the Building Code for Windstorm Resistant Construction, which took effect September 1, 1998, passed its first test last year during Hurricane Bret.

Bret's 125 mile-an-hour winds made landfall in thinly populated Kenedy County. Watt said there was only minor damage to the dozen homes in the hurricane area that had been built to the code. Overall, Bret caused some \$70 million in insured losses, \$7 million paid by the TWIA and the rest paid by insurers in the voluntary market.

TWIA is Texas' residual market for wind and hail insurance in the 14 coastal counties and a portion of Harris County on Galveston Bay.

Watt said Bret would have inflicted much higher losses if it had struck a major coastal city. Watt pointed out that the 115-mph winds of Hurricane Alicia caused \$3 billion in damage when it struck Galveston and Houston in 1983. Since then, Watt said, development along the Texas coast has multiplied and the price of building material and labor has almost doubled.

Nelson explained that structures not built according to the code are ineligible for wind and hail coverage by the TWIA and encouraged coastal residents to contact the nearest TDI windstorm inspection office before building or remodeling.

TDI's seven windstorm inspection offices are in Beaumont, Bay City, Angleton, Mont Belvieu, La Marque, Corpus Christi and Harlingen.

Each news conference was conducted at the site of a home being built according to the code. Nelson and other engineers demonstrated how the anchor bolts, metal straps and metal braces required by the new code make homes more secure and wind-resistant.

Nelson said the code is continually updated based on recommendations of the Building Code Advisory Committee that consists of builders, insurers, engineers and consumers appointed by Commissioner Montemayor.

To obtain inspections by TDI inspectors, builders or contractors must fill out a WPI-1 form before construction. The WPI-1 form verifies the location of the home, whether it is Inland 1, Inland 2 or seaward. The two-page application also calls for the builder's name, address, and contact in-

formation as well as materials to be used. Once this application is delivered to the Windstorm Office, a state windstorm inspector is assigned. Upon notification by the builder or contractor, a TDI inspector will begin the inspection process. The inspector will inspect a new home several times during its construction.

In lieu of using TDI inspectors, builders and contractors may hire qualified Texas-licensed professional engineers appointed by TDI to perform the inspections required for TWIA eligibility. Since February 1, 1999, TDI has appointed 350 engineers to perform windstorm inspections that qualify structures for TWIA coverage.

To qualify as an inspector, an engineer must submit an ENG-1 application form that includes information showing education and experience in wind resistant construction. Inspections conducted by TDI-appointed engineers are subject to oversight by TDI's Engineering Services Section.

An engineer must submit a WPI-1 form to the windstorm inspection office before construction begins. Once construction has been completed, the engineer must fill out a WPI-2 form and submit it to the windstorm office. A WPI-2 is a building construction compliance form that places an engineer's seal of approval on the project and verifies that the new or remodeled home is insurable. With these forms in place, TDI will then send both the builder and homeowner a WPI-8 form, which is the certification required for TWIA coverage eligibility. ★



**Texas Department of Insurance**

P.O. Box 149104

Austin, Texas 78714-9104

Bulk Rate  
U.S. Postage  
**P A I D**  
Austin, Texas  
Permit No. 1613